exemplary damages, the negligence being that of municipal trustees in the erection of a sewer, while the *Wells* case was trespass for assault and battery committed by the conductor of the defendant railroad in forcibly ejecting a passenger from a train. (The doctrine enunciated in these two cases, although not the majority rule, is that of a number of states. *Bank of Palo Alto* v. *Pac. Postal Tel. Cable Co.*, 103 Fed. 841; *L. S. Ry.* v. *Prentice*, 147 U. S. 101; *Reuping* v. *C. & N. Ry. Co.*, 116 Wis. 625; *I. & G. N. Ry. Co.* v. *McDonald*, 75 Tex. 41; *Sun Life Assurance Co.* v. *Bailey*, 101 Va. 443.) The distinction between the principal case and the two Vermont cases cited, says the court, is that in the former the act complained of was one due to the negligence of an officer of the corporation and not a mere employee. The court argues that "a corporate body in the management and prosecution of its business necessarily acts through its governing officers, and therein, as to third persons with whom they are brought in contact or collision, such officers stand to all intents and purposes as the corporation itself." In taking this stand, the court agrees with *Denver & Rio Grand Ry. Co.* v. *Harris*, 122 U. S. 597, in which case the same distinction as here drawn was recognized. The court, in the *Harris* case, speaking through the late Justice HARLAN, said that the doctrine of punitive damages should apply on the ground that the evidence clearly showed that the corporation by its governing officers,—not mere employees—participated in and directed the acts done. Cases of the nature of the principal case show an attempt on the part of the courts pronouncing them to draw away from the old rule that a corporation is only liable in punitive damages for the acts of its servants when the corporation directs or adopts such acts, and to adopt the principle generally accepted that a corporation may, to the same extent as a natural person, be liable in exemplary damages for a tort committed wantonly, oppressively or with gross negligence, in the business of the corporation by a servant of the corporation within the scope of his employment, and if the act is such an act as would subject the servant to exemplary damages if he had been sued as a principal. *Goddard* v. *Grand Trunk Ry.*, 57 Me. 202; *Taylor* v. *G. T. Ry.*, 48 N. H. 304; *Townsend* v. *N. Y. Etc. Ry.*, 56 N. Y. 295; *Singer Mfg. Co.* v. *Holdfoldt*, 86 Ill. 455; *Denver Etc. Ry. Co.* v. *Harris*, 122 U. S. 597; *Times Publ. Co.* v. *Carlisle*, 94 Fed. 762. As to any such middle ground as is attempted by the principal case, it is said, in *Goddard* v. *G. T. Ry.*, *supra*, that all attempts to distinguish between the guilt of the servant and that of the corporation, or the malice of the servant and that of the corporation, is sheer nonsense, and only tends to confuse the mind and confound the judgment.

EVIDENCE—CARBON COPY ADMISSIBLE AS DUPLICATE ORIGINAL.—Plaintiff sued and recovered upon a policy of fire insurance. Upon appeal it was urged by the defendant that the trial court had erred in admitting in evidence a carbon copy of the purported proofs of loss offered by the plaintiff, without requiring the latter to account for the non-production of the original served upon the company's agent, or to show that notice had been served upon defendant to produce it. *Held*, a carbon copy is a duplicate original, and is properly admitted in evidence even where the original has not been ac-

counted for or where it is not shown that the other party has had notice to produce it. *De Michele* v. *London & Lancashire Fire Ins. Co.* (Utah 1912), 120 Pac. 846.

This case follows the few decisions touching this point which have been handed down in the last few years. The non-production of an original must be satisfactorily explained before evidence may be introduced to prove the correctness of a copy. *Tutchin's Trial,* 14 How. St. Tr. 1095; *Cannon* v. *Kinney,* 3 Har. 317; *Sweigart* v. *Lowmarter,* 14 Serg. & R. 200; *Manson* v. *Blair,* 15 Ind. 242. And a press copy of a letter is not admitted in evidence until the loss or non-production of the original has been accounted for. *Westinghouse Co.* v. *Tilden,* 56 Neb. 129; *Traber* v *.Hicks,* 131 Mo. 180; *Heilman Milling Co.* v. *Hotaling,* 21 Ky. Law Rep. 950; *Anglo-American Packing & Provision Co.* v. *Cannon,* 31 Fed. 313. Photographic reproductions of a document are not originals and can be used only as secondary evidence. *Eborn* v. *Zimpelman,* 47 Tex. 503; *Howard* v *.Illinois Trust and Savings Bank,* 189 Ill. 568. It has been held however, that a copy of a report of an accident which is one of three, all made at the same time by the same impression of the copying pencil, must be regarded as a triplicate original. *Virginia-Carolina Chemical Co.* v. *Knight,* 106 Va. 674; and contracts, written notices of demand, and the like, executed by the parties thereto in duplicate or triplicate form have been considered as duplicate or triplicate originals, each being primary evidence. *Totten* v. *Bucy,* 57 Md. 446; *Gardner* v. *Eberhart,* 82 Ill. 316; *Westbrook* v. *Fulton,* 79 Ala. 510; *Waterman* v. *Davis,* 66 Vt. 83; *Catron* v. *German Insurance Co.,* 67 Mo. App. 544; *Savannah Bank and Trust Co.* v. *Purvis,* 6 Ga. App. 275; *Reeves* v. *Martin,* 20 Okla. 558. In *Rosenberg* v. *People's Surety Co.,* 125 N. Y. Supp. 257, which was an action upon a policy of burglar insurance, a carbon copy of the amounts claimed to be lost was not admitted. But in this case the insured had made a written list, and from the list had made the typewritten copy attached to the proofs of loss, and at the same time the carbon copy offered in evidence. In *Booker-Jones Oil Co.* v. *Nat. Refining Co.* (Tex. Civ. App. 1910), 131 S. W. 623 the carbon copy of a letter written by another was held objectionable on the ground that the letter was the best evidence. *State* v. *Teasdale,* 120 Mo. App. 692, held that the admission of carbon copies as primary evidence in a criminal case was error, although the same court in *Wright* v. *Chicago etc. Ry. Co.,* 118 Mo. App. 392, admitted carbon copies of a scale of tickets as primary evidence. The following cases hold with the principal case: *International Harvester Co. of America* v. *Elfstrom,* 101 Minn. 263, 12 L. R. A. (N. S.) 343, 118 Am. St. Rep. 626, 11 AM. & ENG. CAS. ANN. 107; *Cole* v. *Ellwood Power Co.,* 216 Pa. St. 283; *Burnett Cigar Co.* v. *Art Wall Paper Co.,* 164 Ala. 547; *Chesapeake & O. R. Co.* v. *Stock,* 104 Va. 97; *Goodman* v. *Saperstein* (Md. 1911), 81 Atl. 695.

EVIDENCE—JUDICIAL NOTICE THAT BEER IS AN INTOXICATING LIQUOR.—Appellant was convicted of violating the local option law by a sale of beer, and his conviction was affirmed. Upon motion for rehearing appellant insisted that the court had erred in taking judicial notice that beer is an intoxicating liquor when no question had been raised as to the properties of the liquor,